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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/552,910	10/13/2005	Richard Kulak	60469-233; OT-5183	6900
64779	7590	10/04/2007	EXAMINER	
CARLSON GASKEY & OLDS 400 W MAPLE STE 350 BIRMINGHAM, MI 48009			COLON SANTANA, EDUARDO	
			ART UNIT	PAPER NUMBER
			2837	
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			10/04/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/552,910	Applicant(s) KULAK ET AL.	
	Examiner Eduardo Colon Santana	Art Unit 2837	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-10 and 13-19 is/are rejected.
- 7) ☐ Claim(s) 4, 11 and 12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>Detailed Action</u> . |

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DETAILED ACTION

1. Applicant's response filed on 6/27/2007 have been received and entered in the case.
2. Applicant's arguments with respect to claims 1, 9 and 16 have been considered but they are not persuasive.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 5-9 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Jamieson et al. U.S. Patent No. 5,810,120.

Referring to claims 1 and 5, 7 and 9, Jamieson et al. discloses a roller guide assembly featuring a combination of a solenoid and an electromagnet for providing counterbalanced centering control (see all figures and respective portions of the specification). Further, Jamieson et al. discloses a roller guide device (100, Fig. 3) having at least one roller (110) adapted to guide an elevator car (12) along a guide rail (14, 16), in which a hardness is control by a damper (11, 13, Fig. 1 and 108, Fig. 5) that has selectively variable stiffness to dampen the relative movement of the roller by way of a magnetic field produce by a magnetic field generator (electromagnet 34, 36, Fig. 1; 58, Fig. 2 and 150, Fig. 6) adjacent to the rollers (30, 32 Fig. 1). Furthermore, Jamieson et al. disclose a controller (20) that

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determines a condition of the elevator car (12) by sensor means (148, 150 and 180) to automatically control the stiffness of the dampers.

As to claims 6 and 13, Jamieson et al. discloses that a plurality of rollers (104, 106 and 110) are shown in figure 3, each having separately actuatable magnetic field generators (see Col. 4, line 52 to Col. 5, line 12).

Referring to claim 8, even though Jamieson et al. discloses an electromagnet (34, 36, Fig. 1); the use of permanent magnet is also readily available and well known in the art.

As to claims 14, 15 and 19, Jamieson et al. disclose a controller (20) that determines a condition (vibration, speed, position) of the elevator car (12) by sensor means (148, 150 and 180) to automatically controlling the stiffness and dampening the relative movement of the roller by way of a magnetic field produce by the magnetic field generator.

As to claim 16, the method steps are inherent in the product structure of claim 1 and 9 above. Further discussion is omitted.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a

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background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
4. Claims 2, 3, 10, 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jamieson et al. in view of Fujita JP Patent No. 05116869 A.

Referring to claims 2, 3, 10 and 17, Jamieson et al. addresses all the limitations of claims 1, 9 and 16 above, in addition to disclosing that their dampers have either a spring in compression or tension (Col. 6, line 66 - Col. 7, line 7) in combination with a solenoid to provide coarse variable stiffness in combination with electromagnets for finer control. However, Jamieson et al. does not teach or describe having a roller guide assembly in which a membrane contains magnet-rheological fluid having a viscosity that changes responsive to the magnetic field. Nonetheless, Fujita discloses an elevator system, wherein a guide roller (10) is rotatably supported to make contact with a guide rail (3), in which the assembly includes a membrane (21) containing magnetic fluid (22) and an electromagnetic coil (23) to control the viscosity of the magnetic fluid (22).

Since Jamieson et al. and Fujita are in the same field of endeavor, the purpose disclosed by Fujita would have been recognized in the pertinent art of Jamieson et al.

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It would have been obvious to one of ordinary skill in the art at the time of the invention to use a magnetic fluid having a variable viscosity as taught by Fujita within the teaching of Jamieson for the purpose/advantages of providing a greater range of selective damping for enhance rider comfort and simplicity.

As to claim 18, the methods steps are obvious in the product structure of claim 17 above. Additionally, Jamieson et al. discloses that a plurality of rollers (104, 106 and 110) are shown in figure 3, each having separately actuatable magnetic field generators, so the modification of varying the strength of the magnetic field in response to a fluid having a viscosity that changes as describe in claim 17 is obvious as stated above.

Allowable Subject Matter

5. Claims 4, 11 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

6. Applicant's arguments filed on 6/27/2007 have been fully considered but they are not persuasive.

It is believed that the prior art of record reads on claims 1, 9 and 16 as previously presented.

In response to applicant's argument that Jamieson et al. does not teach or describe that the roller have a hardness that varies is not persuasive. One of ordinary skill would recognize the well-known

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definition of hardness¹. Conversely, Jamieson et al. clearly states and depicts a roller guide device having rollers (30, 32) in which a hardness is controlled by dampers (11, 13, Fig. 1 and 108, Fig. 5) that have selectively variable stiffness to dampen the relative movement of the roller by way of a magnetic field produce by a magnetic field generator (electromagnet 34, 36, Fig. 1; 58, Fig. 2 and 150, Fig. 6) adjacent to the rollers (30, 32 Fig. 1). It seems that Applicant's arguments only amount to a general allegation that the claims define a patentable invention without specifically pointing out the patentable novelty, which he or she thinks the claims present in view of the state of the art presented.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


¹ The property of being rigid and resistant to pressure; (WordNet© 3.0, 2006)

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eduardo Colon Santana whose telephone number is (571) 272-2060. The examiner can normally be reached on Monday thru Thursday 6:30am - 3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lincoln Donovan can be reached on (571) 272-2800 X.37. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Eduardo Colon Santana
Patent Examiner
Art Unit 2837

/ECS/
September 27, 2007


LINCOLN DONOVAN
SUPERVISORY PATENT EXAMINER